

FOR IMMEDIATE RELEASE
July 29, 2022

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**SHARON HILL BOROUGH COUNCIL RELEASES REPORT REGARDING THE
INVESTIGATION OF THE POLICIES AND PROCEDURES SURROUNDING THE
ACADEMY PARK HIGH SCHOOL FOOTBALL GAME SHOOTING**

On September 16, 2021, Sharon Hill Borough Council ("Council") unanimously appointed Kelley Hodge and the Law Firm of Fox-Rothschild LLP as special counsel to investigate policies and procedures surrounding the Academy Park High School Football Game Shooting.

In June 2022, Ms. Hodge and her team concluded its nine-month-long investigation. Ms. Hodge's investigation examined the Sharon Hill Police Department's ("SHPD") policies and procedures and the use of force training requirements to assess and advise on their content and application. Ms. Hodge's investigation also included "best practices" regarding community policing. At the conclusion of the investigation, Ms. Hodge provided a written report to Council.

Today, ahead of its deadline of July 31, 2022, Council has released a redacted Investigation report. The goal of the report is to "provide measurable information that can guide future planning, training, and resource allocation" with the ultimate goal to "ensure that the events of August 27, 2021, do not happen again."

This investigative report is an important step on the path to improve the practices of the SHPD while providing transparency to the greatest extent possible in light of pending litigation.

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**INVESTIGATION OF
THE SHARON HILL POLICE DEPARTMENT
POLICIES AND PROCEDURES
FOLLOWING THE ACADEMY PARK HIGH
SCHOOL SHOOTING ON AUGUST 27, 2021**

**REPORT TO
THE SHARON HILL BOROUGH COUNCIL**

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I. INTRODUCTION

On August 27, 2021, an eight-year-old child, Fanta Bility, was shot and killed as she was leaving the Academy Park High School football stadium with her family. In addition to the tragic death of Fanta Bility, her sister and two (2) other citizens were also injured by gunfire. In a statement issued by the Delaware County District Attorney's Office on September 2, 2021, the District Attorney stated, "Last Friday evening a chaotic and horrific series of events took place outside the football stadium at Academy Park High School in Sharon Hill." The District Attorney shared his offices' preliminary findings: "First, physical evidence and community witnesses establish that the events of last Friday began with gun shots on the 900 block of Coates Street. That gunfire included a shot in the direction of three (3) Sharon Hill Police Officers monitoring the crowd exiting the football stadium, which struck and injured a civilian. In response to the gunfire, the police officers discharged their service weapons. Tragically, our investigation has now determined that there is a high probability that the responsive gunfire of the Sharon Hill Police Officers struck four victims, including the shots that killed 8-year-old Fanta Bility and wounded her sister. The death of Fanta and the wounding of her sister and the other students are [sic] a heart-breaking tragedy for her family, her friends, and the entire Delaware County community."³

Following the tragic events of August 27, coupled with the statement from the Delaware County District Attorney regarding the preliminary findings of the ongoing investigation, the Sharon Hill Borough Council ("Borough Council" or "Council") expressed their immediate concern and sadness for the loss of life of a child and the injuries to innocent bystanders. As a result, Borough Council sought to address the concerns of the citizens of Sharon Hill Borough as well as their own concerns as citizens and Borough leadership by initiating an independent investigation into the Sharon Hill Police Department ("SHPD") policies and procedures on the use of force. On September 16, 2021, Borough Council voted unanimously on its motion to appoint Special Counsel to administratively investigate the SHPD use-of-force policies and procedures in place at the time of the Academy Park shooting. The expectation of Council in the launching an administrative investigation was to have an independent entity review the Sharon Hill Police Department's policies and procedures and provide "[A]dministrative accountability for any possible violations related to the incident as well as examine Sharon Hill Police Department policies and procedures at the time of the tragic shooting to include use of force training requirement."⁴

The goal of Borough Council was to ensure that going forward, the SHPD adopts and implements the best practices available regarding the use of force and any other relevant policies and procedures (i.e. critical incident response, citizen complaint review and response). Additionally, while not specifically stated in their motion, the Borough Council made it known to Special Counsel that recommendations regarding policy improvements to community policing practices were welcomed. The purpose of Special Counsel's review of the SHPD use of force policies and community policing policies was to

³ See [REDACTED].

⁴ See [REDACTED].

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provide concrete recommendations on how to make improvements in the policies and implementation of use of force and community policing practice. Recommendations that would provide measurable information that can guide future planning, training and resource allocation. The ultimate goal is to try and ensure that the events of August 27, 2021 do not happen again.

With this charge, the directives presented by Borough Council were as follows:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

A. Geography and Demographic Information on Sharon Hill Borough

To provide relevant context to this report, it is beneficial to outline some key data points about the demographics and geography of the Borough of Sharon Hill, Pennsylvania (“Sharon Hill”). Sharon Hill is a borough within Delaware County that is approximately .8 square miles that borders Philadelphia. According to the most recent census (2020) reports, Sharon Hill has approximately 5,712 residents and has seen its population grow slowly over the years. Demographically, Sharon Hill is a diverse community of people of all ages, genders, military/veteran status, incomes, ethnicities, education levels. According to the census bureau American Community Survey (ACS) the race composition of Sharon Hill as of 2020 was:

- Black or African American: 71.15%
- White: 21.25%
- Other race: 3.10%
- Two or more races: 2.38%
- Asian: 2.13%
- Native American: 0.00%
- Native Hawaiian or Pacific Islander: 0.00%

The median age for Sharon Hill is 35.8 and median income for a household is \$57,206. Another data point that reflects the diversity of the Sharon Hill is that 10.54% of the population speak a

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language other than English and 55.6% of the naturalized citizens in Sharon Hill are from Africa.⁵ Based on information provided by the Chief of the Sharon Hill Police Department, Richard Herron, there are no reported or self-identified members of the police department who are Black, Hispanic or Asian. The police department is comprised of all male officers who are predominately Caucasian.⁶ Thus, presently, the Sharon Hill Police Department does not reflect the racial or ethnic diversity within Sharon Hill.

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⁵ See World Population Review. Sharon Hill, Pennsylvania Population 2022 (Demographics, Maps, Graphs). Retrieved May 19, 2022, from <https://worldpopulationreview.com/us-cities/sharon-hill-pa-population>.

⁶ Sharon Hill Police Department (“Department”) Chief reported that, as of the issuance of this report, the Department has numerous vacancies, full and part time, and is in need of additional members. The Department is seeking to fill vacant positions and is “taking active steps towards the recruitment of new part time officers and to expand the diversity in the department and is also taking active steps to seek to incorporate diversity into the police department,” through training, advertising and recruitment and working with local partners.

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II. EXECUTIVE SUMMARY

On August 27, 2021, families, students, children, and members of the Sharon Hill community were leaving the Academy Park High School Football game around 8:30 pm when gunfire was heard in the area. As people were looking to protect themselves and take cover, three Sharon Hill Police Department (SHPD) officers who were on duty, Brian Devaney, Sean Dolan and Devon Smith, responded to the gunfire and each discharged their service weapons. In total, Officers Devaney, Dolan and Smith fired twenty-five rounds in the direction of where they believed the initial gunfire had erupted, striking three (3) civilians.

Fanta Bility, an eight-year-old child, was shot by a bullet fired by one of the officers. Two other SHPD officers on scene, Vincent Procopio and John Scanlan, immediately attended to Fanta Bility and transported her in a patrol vehicle to Mercy Fitzgerald Hospital. Sadly, at 9:25 p.m., Fanta Bility was pronounced deceased.

Following the shooting, Corporal Vincent Port of the SHPD arrived on location shortly after 8:45 pm. Upon his arrival, Corporal Port questioned the on-duty officers to determine what occurred. Officers Devaney, Dolan and Smith each responded affirmatively that they had discharged their service weapon. At that point, no further questions were asked by the Corporal of the officers that discharged and those officers were directed to meet with their Fraternal Order of Police (“FOP”) union representative who was on location. The scene of the shooting was processed by the District Attorney’s Office’s Criminal Investigation Unit (“CID”), and evidence was collected and processed.

Following the events that took place on August 27, 2021 and the innocent loss of life of a child and injury to other innocent bystanders, the Sharon Hill Borough Council (“Borough Council” or “Council”) and the citizens of Sharon Hill were pained over what had taken place. Borough Council wanted to promptly address the clear concerns and directed an independent investigation into the administrative policies and procedures of the Sharon Hill Police Department. The Borough Council sought to have a clear understanding of the SHPD policies and procedures regarding the proper and lawful use of force and, if those policies were somehow deficient or could be improved upon, to be provided recommendations for improvement.

On September 16, 2021, the Borough Council hired the law firm, Fox Rothschild, LLP to conduct an independent investigation (“Investigation”) of the SHPD’s use of force policies. On September 17, 2021, Investigators requested from the SHPD all policy and procedures that were in place at the time of the shooting. While waiting to receive that information from the police department, Investigators gathered other police department policies to serve as comparators from other localities in Pennsylvania and also gathered national and state law enforcement resource agency reports and information to comprehensively evaluate the policies and procedures of the Sharon Hill Police Department. After receiving the requested documents, in total, in December 2021, Investigators promptly requested interviews with all members of the SHPD. All members of the SHPD were not available. The stated reason given by Police Chief Richard Herron for why certain members of the police department were not available was that due to a law enforcement members

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III. SCOPE AND METHODOLOGY OF THE INVESTIGATION

A. **Request for an Administrative Investigation by the Sharon Hill Borough Council Following the Academy Park High School Football Game Shooting**

On August 27, 2021, three police officers employed by the Sharon Hill Police Department discharged their service weapons while on duty following an Academy Park High School football game, striking multiple citizens and resulting in the death of an eight-year-old girl, Fanta Bility. Those officers, Brian Devaney, Sean Dolan and Devon Smith were the subjects of an investigating grand jury. The facts uncovered during the grand jury investigation were presented at a preliminary hearing and all three officers were indicted on charges of voluntary manslaughter, involuntary manslaughter and recklessly endangering another person and are awaiting trial. Officers Devaney, Dolan and Smith have also been terminated from employment with the Sharon Hill Police Department.

While the Delaware District Attorney's Office, Special Investigations Unit ("SIU") conducted the grand jury investigation into the events of August 27, 2021, the Borough of Sharon Hill sought to conduct a parallel administrative investigation into the Sharon Hill Police Department policies and procedures in effect the night of the shooting.

On September 16, 2021, the Borough Council convened a meeting and voted to hire the law firm, Fox Rothschild, LLP to conduct an independent investigation ("Investigation") of the SHPD's use of force. Former Philadelphia District Attorney, Kelley Hodge, was selected and identified as the attorney to lead the Investigation. The scope of the Investigation as stated in the press release by Borough Solicitor Sean Kilkenny was as follows:

"SHARON HILL BOROUGH COUNCIL APPOINTS KELLEY HODGE AS SPECIAL COUNSEL TO ADMINISTRATIVELY INVESTIGATE POLICE POLICIES AND PROCEDURES SURROUNDING THE ACADEMY PARK HIGH SCHOOL FOOTBALL GAME SHOOTING.

*The administrative investigation is meant to provide accountability for any possible policy violations related to the incident. In addition to accountability, the investigation will examine Sharon Hill Police Department policies and procedures at the time of the tragic shooting and the use of force training requirements to assess and advise on their content and application. This will ensure that going forward, the Borough's Police Department adopts and implements the best community policing policies and procedures."*⁷

The purpose of the Investigation was to review police department policies and procedures, specifically relevant to use of force as well as other relevant policies and procedures related to the

⁷ See [REDACTED]

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shooting. The scope of the Investigation included review of the SHPD use of force policies and practices, review of officer training and responsiveness to critical incidents (i.e. active shooter, large group preparedness) and comparison of the SHPD's existing protocol with other law enforcement entities and best practices in the field of law enforcement as identified by local, state and national entities. These national agencies include the United States Department of Justice ("DOJ"), Federal Bureau of Investigation ("FBI") and Municipal Police Officers Education and Training Commission ("MPOETC").

Based on the review of current SHPD policies and procedures, interviews with current members of the SHPD and the publicly available information regarding the Academy Park shooting, Special Counsel was asked to identify what, if any, deficiencies existed in policy, training or the execution of same which resulted in injury or death to citizens based on an officer's use of force. If deficiencies were identified, Special Counsel should offer recommendations to Borough Council addressing possible improvements to use-of-force policies, procedures, implementation, training and SHPD accountability. The thoroughness of the Investigation depended, in large part, on the cooperation, candor and transparency of the SHPD.

As will be described in more detail throughout this report, the Investigators were, for the most part, provided access to the documents they requested, subjects to be interviewed, and topics to be discussed during those interviews. However, the timeliness in receipt of some information was delayed at times and the availability of certain individuals who were requested for interviews was not permitted based on their involvement in the pending criminal grand jury investigation and preliminary hearing.

The goal of this report is to provide as complete a picture as possible of all the relevant information obtained by the Investigators throughout the investigation to allow the Borough Council to make thoughtful and informed policy and administrative decisions that they deem necessary and appropriate to promote trust, safety, integrity and confidence in the SHPD and improve the SHPD and its relationship with the community and, specifically, its engagement with its citizens. For Borough Council, this Investigation is not the end, but the beginning of its ongoing effort to ensure the SHPD is employing the best practices to protect the community.

B. Basis for the Investigation: The August 27, 2021 Fatal Shooting Incident

The details of the events on August 27, 2021, following the conclusion of the Academy Park Football game which resulted in the fatal shooting of an eight-year-old child, serve as the basis for the initiation of this Investigation. The purpose of the Investigation is dictated on the directive that was voted upon by the Sharon Hill Borough Council and is limited in scope to an administrative investigation.

It is not the purpose of the Investigation to render a conclusion about the liability or culpability of any party under a criminal or civil law standard of proof. Rather, the purpose of the Investigation was to assess the comprehensiveness of the Department's existing policies. To accomplish the stated purpose, Investigators sought to identify any deficiencies in policy, training, effectiveness,

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compliance and implementation in order to improve the SHPD and further its purpose of protecting the citizens of Sharon Hill Borough.

[REDACTED]

[REDACTED] As such, a portion of this report is devoted to providing a detailed explanation of the events that unfolded on the evening of August 27, 2021.

C. Procedural History: Requests for Documents and Information from the Sharon Hill Police Department

Investigators were hired by vote of the Borough Council on September 16, 2021. On September 17, 2021, Investigators submitted a request for written documents to the SHPD Chief of Police, Richard Herron, and scheduled an introductory meeting for September 22, 2021. The documents and information requested on September 17, 2021 included the following:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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[REDACTED]

On September 22, 2021, Investigators conducted an introductory call with Chief Herron. On October 25, 2021, Chief Herron made the first document production on behalf of the SHPD which included some, but not all, of the documents requested.⁸ After making follow up requests, additional documentation was provided by Chief Herron on December 14, 2021. Cumulatively, there were 422 pages provided by Chief Herron in a binder titled “Sharon Hill Police Department Policies and Procedures”. The review of the binder of documentation is a portion of the total information that was gathered and reviewed as a part of this Investigation.

D. Sharon Hill Police Officer Interviews

Investigators also requested from Chief Herron the ability to interview all members of the Sharon Hill Police Department employed as of August 27, 2021. As of August 27, 2021, there were nineteen (19) law enforcement members of the Sharon Hill Police Department. As of June 6, 2022, there are thirteen (13) law enforcement members and one (1) civilian member that comprise the Sharon Hill Police Department. On December 15, 2021, Investigators contacted those police officers at the SHPD by email whose email addresses were provided, with Chief Herron copied, requesting the officers provide their availability between December 20, 2021 and January 7, 2022 to meet for an interview.

The chart below reflects all law enforcement members of the Department employed as of August 27, 2021 and/or as of June 6, 2022:⁹

OFFICER NAME	RANK
Richard Herron	Chief
Vincent Port	Corporal
Michael Attix	Corporal
Sean Johnson	Detective
Vincent Procopio	Detective

⁸ [REDACTED]

⁹ The officer’s names in **bold** are no longer employed by the Sharon Hill Police Department. Brian Devaney, Sean Dolan and Devon Smith were terminated on January 20, 2022. Thomas Mack is now a full-time officer at another police department. Any officer’s name that is in *italics* is a current member of the Department who was not employed by the Department on August 27, 2021.

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Anthony Buckland	Patrolman ¹⁰
Chris Hujanir	Patrolman
Brian Devaney	Patrolman
Sean Dolan	Patrolman
Devon Smith	Patrolman
James Williams	Patrolman
John Linderborn	Patrolman
Kimberly Verdin	Rank unidentified
Matthew Hansell	Patrolman
John Scanlan	Patrolman
Shaun Douglas	Patrolman (School Resource Officer)
<i>Michael Brodzinski</i>	Patrolman (Part-time)
<i>Russell Martorelli</i>	Patrolman (Part-time)
George Lambritsios	Patrolman (Part-time)
Thomas Mack	Patrolman (Part-time)

[REDACTED]

[REDACTED]

¹⁰ [REDACTED]

¹¹ [REDACTED]

¹² [REDACTED]

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[REDACTED]

E. Other Meetings Conducted¹⁷

[REDACTED]

[REDACTED]

IV. STATEMENT OF FACTS

A. Academy Park High School Shooting

While the suspected officers involved in the shooting along with the Corporal and other law enforcement personnel who were responsible for the criminal investigation were unavailable for interviews due to the pending criminal investigation and, upon indictment, the case, the preliminary hearing for former officers Brian Devaney, Sean Dolan and Devon Smith from March 3, 2022 provides the content of statement of facts as to what took place surrounding the shooting.¹⁸

According to the preliminary hearing transcript, on the evening of August 27, 2021, there was a football game scheduled to be played at the Academy Park High School football field (“football field”). The football field is located between Kenney Avenue to the west, the 800 block of Coates Street to the south, and Calcon Hook Road to the east.¹⁹ Officers Brian Devaney, Sean Dolan and Devon Smith were assigned a security detail at the football game that evening. When the football

¹⁷ Investigators were contacted or received information from two citizens following the announcement of this investigation to express their concerns or share information. There was no formal interview conducted with any citizen and any information provided was reviewed to determine its veracity or if it could be verified.

¹⁸ See Exhibit C-4. March 3, 2022 Magisterial District Court 32-1-25 Preliminary Hearing Transcript.

¹⁹ See Exhibit G-1. Overhead Google image of the Academy Park High School Football Field.

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game ended, the patrons in attendance began to leave the game through the only exit, a ramp in the middle of the 800 block of Coates Street angled west towards Kenney Avenue.

At approximately 8:45 p.m. that evening, as pedestrians were leaving the game through the ramp onto Coates Street, shots rang out. The first shooting incident that occurred that evening was between two individuals, A.J. Ford (“Ford”) and Hasein Strand (“Strand”) who reportedly had been in attendance at the game. Witnesses to the criminal investigation describe Ford as firing the first shots from a .45 caliber semi-automatic firearm from the area of 909 Coates Street west towards Ridley Street. He fired at least five times towards Hasein Strand. Strand then returned fire by shooting a 9mm semi-automatic firearm from approximately 919 Coates Street east towards the 800 block of Coates Street where pedestrians were leaving the football game and where Officers Brian Devaney, Sean Dolan and Devon Smith were positioned. One of the projectiles fired by Strand struck an unintended target, [REDACTED].

Moments prior to the shooting between Ford and Strand, a young woman named Aasiyah Easley was driving south on Kenney Avenue and stopped at the stop sign at the intersection with Coates Street. Ms. Easley was driving a black Chevrolet Impala with her friend, Yasmin Mobley, sitting in the front passenger seat. There were no other individuals in the car. After coming to a stop, Ms. Easley observed individuals leaving the football game coming out of the gate onto Coates Street. Ms. Easley made a left turn from Kenney Avenue onto the 800 block of Coates Street and began to drive eastbound.

As Ms. Easley was making the left turn, she heard two gunshots coming from the easterly direction, which would have been the 900 block of Coates Street. Ms. Easley drove down Coates Street and heard a second series of gunshots coming from the same direction. When Ms. Easley heard these shots, her car was located between the tennis courts and the ramp on the 800 block of Coates Street. When she heard the second series of gunshots, Ms. Easley stopped her car and was trying to recline her seat in an attempt to duck and take cover. At this point, her car was stopped approximately parallel with the exit ramp from the football field.

Ms. Easley then heard bullets coming through the window of her car that shattered the glass. She stated during the preliminary hearing of Devaney, Dolan and Smith that she could feel the glass on her skin. Ms. Easley drove her car east on the 800 block of Coates Street and did not stop hearing gunshots until reaching the end of the block.

SHPD Officer Sean Scanlon was located inside the football field gate, opposite the exit ramp and on the inner part of the track that surrounds the football field when he first heard gunshots on the evening of August 27, 2021. When the shooting stopped, Officer John Scanlon could hear a young girl screaming. He rushed to render aid to the young girl, Fanta Bility, who had suffered a gunshot wound. He and his partner, Officer Vincent Procopio, decided that they could not wait for medical attention to arrive, and rushed Ms. Bility to a patrol car and transported her to the hospital. Fanta Bility died on August 27, 2021 at 9:25 p.m. as a result of a gunshot wound.

B. Immediate Response

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At approximately 8:45 pm on the evening of August 27, 2021, Corporal Vincent Port received a notification from Delaware County police radio of a shooting incident at the Academy Park football game. Corporal Port arrived on scene within approximately 15 minutes of the initial report at the intersection of Kenney Avenue and Coates Street. Corporal Port made contact with Officer Brian Devaney on the south side of the 800 block of Coates Street, approximately across from the tennis courts. Corporal Port described Officer Devaney as being agitated and sweating during his preliminary hearing testimony. According to Corporal Port, Devaney repeatedly told him “they were shooting at us, they were shooting at us” and was indicating from the direction of the 900 block of Coates street.

Corporal Port asked Officer Devaney to explain what happened. As testified to by Corporal Port, Officer Devaney stated that he heard gunshots whizzing past him. As this was happening, a black Chevrolet Impala with black-tinted windows was driving down the 800 block of Coates Street heading east. The Impala was traveling at a high rate of speed then slammed on the brakes and came to a screeching stop close to where Officer Devaney was positioned. As the Impala stopped, Officer Devaney then heard a second burst of gunshots, this time louder. Officer Devaney said that it sounded to him like the gunshots were coming from the black Impala. Officer Devaney stated that “we discharged.” Corporal Port asked, “who is ‘we’?”. Officer Devaney replied that he, Officer Dolan and Officer Smith all discharged their service weapons.

Corporal Port observed multiple fired cartridge casings²⁰ on the ground in the area where he and Officer Devaney were talking. Once Corporal Port was notified that Officer Devaney discharged his service weapon, a separate protocol was triggered and Corporal Port directed Officer Devaney to his Fraternal Order of Police representative that had responded to the scene of the Academy Park shooting and was on location. Corporal Port notified the Delaware County District Attorney’s Office, Criminal Investigations Division (“CID”) to process the scene of the shooting. Detective Timothy Deery of the Delaware County District Attorney’s Office CID, assigned to the Homicide Division, arrived on scene on the evening of August 27, 2021. Detective Deery, a thirty (30) year veteran of law enforcement with five (5) years in the homicide division, processed the scene and assisted in marking, photographing and collecting physical evidence.

C. Resulting Criminal Prosecution of Officers Devaney, Dolan and Smith

After the scene of the shooting was processed and evidence was collected, law enforcement investigators believed Fanta Bility may have been shot and killed by the three officers that discharged their service weapons that evening. Witness interviews and ballistics analysis corroborated that belief. Per testimony provided by Detective Timothy Deery of CID, there were twenty-five (25) fired cartridge casings on the 800 block of Coates Street. Eight (8) of those were fired by the Glock 17, 9mm service weapon belonging to Officer Devaney; eleven (11) fired

²⁰ A cartridge casing is the casing that holds the projectile for a round of ammunition or a part of bullet that holds the explosive material and the projectile. In a semi-automatic handgun, like the standard issue Glock handguns carried by the SHPD officers, when a projectile is fired, the fired cartridge casing is ejected from the gun.

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cartridge casings were fired from the Glock 17 belonging to Officer Smith; and six (6) fired cartridge casings were fired from the Glock 17 belonging to Officer Dolan. The black Chevy Impala driven by Ms. Easley was located and processed. There were multiple gun shots that struck Ms. Easley's vehicle. There were fired projectiles recovered from the passenger-side door of the black Chevy Impala. Two of the fired projectiles recovered from the vehicle matched to the guns belonging to Officers Devaney and Smith. There was a fired projectile recovered that had Fanta Bility's DNA on it. It is undetermined from which gun that projectile was fired. Additionally, investigators also located other shooting victims, [REDACTED] and [REDACTED], who were in the 800 block of Coates Street at the time of the gunfire.

On September 8th and 9th, 2021, approximately two weeks after the shooting, the non-discharging SHPD Officers who were present the night of the shooting, August 27, 2021, provided statements describing their account of what they observed. An incident report was provided to the Delaware County District Attorney's Office in September 2021.

On September 27, 2021, Delaware County District Attorney Jack Stollsteimer announced that his office impaneled an investigating grand jury to investigate the shooting death of Fanta Bility and to consider the possible criminal charges against the officers. On November 18, 2021, a grand jury composed of Delaware County residents was seated to investigate the events of August 27, 2021. On or about January 18, 2022, the grand jury made a presentment recommending the charges of Voluntary Manslaughter, Involuntary Manslaughter, and Recklessly Endangering Another Person²¹ against Officers Devaney, Dolan and Smith. On January 20, 2022, the Sharon Hill Borough Council approved the termination of Officers Devaney, Dolan and Smith. On March 3, 2022, the Delaware District Attorney's Office Special Investigations Unit presented its case against the Officers at a preliminary hearing before Magisterial District Judge Robert R. Burke. Judge Burke held each defendant, Officers Devaney, Dolan and Smith, for court on all charges: Voluntary Manslaughter, Involuntary Manslaughter, and ten (10) counts of Recklessly Endangering Another Person.

V. REVIEW OF SHARON HILL POLICE DEPARTMENT

A. Overview of Department

²¹ § 2503(b). Voluntary Manslaughter: A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 of this title (relating to general principles of justification), but his belief is unreasonable. Voluntary manslaughter is a felony of the first degree. § 2504(a). Involuntary manslaughter: A person is guilty of involuntary manslaughter when as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner, or the doing of a lawful act in a reckless or grossly negligent manner, he causes the death of another person. Involuntary manslaughter is a misdemeanor of the first degree. § 2705. Recklessly endangering another person: A person commits a misdemeanor of the second degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.

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The Sharon Hill Police Department is the police department that services the Sharon Hill Borough in Delaware County, Pennsylvania. The SHPD consists of both full and part-time police officers. As of the date of this report, the SHPD is not an accredited police department.²²

As of August 27, 2021, the number of active officers was nineteen (19) based on a roster provided by Chief Herron. As of June 6, 2022, there are thirteen (13) law enforcement members in the Department. The Sharon Hill Police Department is guided by its Duty Manual, a document that provided to each officer upon their hiring. The Duty Manual provides the department structure, as well as a summary of each officer’s moral and legal obligations as a police officer. The stated purpose of the Duty Manual is to “provide guidance and confidence in [each officer’s] daily activities...[and to] establish a uniform code of personal conduct for all personnel.” The stated goal for each officer is “to achieve the highest levels expected of a professional Police Officer.”²³

The Duty Manual explains the hierarchy of rank within the Sharon Hill Police Department as follows:

1. Chief of Police
2. Sergeant
3. Police Officer / Detective
4. Patrolman

All Sharon Hill Police Department personnel shall follow the Code of Conduct.²⁴ Among other things, all personnel must obey all laws of the United States, all laws of the Commonwealth of Pennsylvania, and all laws and ordinances of the Borough of Sharon Hill.²⁵ All personnel must be held responsible for any act or omission which is prejudicial to good order or discipline.²⁶ All personnel are expected to be “totally aware and familiar with all...Departmental Policies and Duty Manual” as well as “the ‘Use of Force’ laws in effecting an arrest and criminal activity leading to an arrest of persons.”²⁷

It is the duty of the Chief of Police to ensure that all the personnel within the Sharon Hill Police Department have a knowledge and understanding of all SHPD policies as well as the use of force laws and policies that SHPD personnel are required to follow. The Policy Manual details the duties and responsibilities of the Chief of Police.²⁸ The Chief is responsible for the “total operation of the

²² Pennsylvania Law Enforcement Accreditation Commission (PLEAC) oversees the application and approval process for law enforcement entities seeking Accreditation. Currently, there are 142 active accredited law enforcement entities in Pennsylvania with fourteen (14) accredited police departments in Delaware County.

²³ See [REDACTED]

²⁴ See [REDACTED]

²⁵ See [REDACTED]

²⁶ See [REDACTED]

²⁷ See [REDACTED]

²⁸ See [REDACTED]

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department.”²⁹ The Chief is tasked with managing, directing, and controlling all resources of the department and the Chief “shall formulate continuing educational training programs for all personnel” as well as “develop new techniques and improve the effectiveness of the department.”³⁰ As such, the Chief of Police has the authority to implement new policies and training techniques to ensure that, at the very least, all personnel possesses a thorough understanding of the use-of-force laws and policies that each officer is expected to uphold.

Each new hire to the Sharon Hill Police Department is provided with the Sharon Hill Police Department Duty Manual, Policy Manual and the list of SHPD Policies. Each member of the SHPD is required to sign and return a statement indicating they have accepted the documents and have read and understood them.

B. Use of Force Policies in Effect at the Time of Shooting Incident

There were multiple policies regarding the use of force in the materials provided by the SHPD. The various policies relating to the appropriate use of force appear in the following Sharon Hill Police Department materials:

Code of Conduct: The third page of the Sharon Hill Police Department Policy Manual includes the Sharon Hill Police Department “Code of Conduct.” The Code of Conduct includes a section entitled “Use of Force” and provides as follows:

*“A Police Officer will never employ unnecessary force or violence and will use such force in the discharge of their duty as is reasonable in all circumstances. The use of force should be used only with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every Police Offices will refrain from the unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person.”*³¹

SHPD Policies & Police Directives: The SHPD Policies in effect at the time of the Academy Park shooting consisted of sixty (60) police directives (“Directives”). Each Directive has a number and title. Some Directives include multiple subparts and are complex, while others are short and straightforward. Chief Herron signed an order dated January 18, 2016, whereby he ordered all sixty police Directives to remain in effect until further notice and such directive would be re-

²⁹ See *id.*

³⁰ See *id.*

³¹ See [REDACTED]

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evaluated “when needed.”³² There is no indication any of the sixty Directives were edited or amended between January 18, 2016 and August 27, 2021, the date of the Academy Park shooting.³³

While some of the Directives from the Sharon Hill Police Department may overlap with, or even be identical to police directives in other departments, each department is responsible for creating and implementing its own policies. Indeed, some part-time police officers in the Sharon Hill Police Department also worked part-time in other police departments within Delaware County. Those part-time officers were required to learn and understand the policies unique to each police department. [REDACTED]

[REDACTED] The SHPD policies that involve the use of force are as follows:

- **POLICE DIRECTIVE 026 – Service / Duty Weapon**

Police Directive 26 consists of fifteen (15) paragraphs, some of which involve the appropriate use of force.³⁴ Paragraph 8 states that “under no circumstance shall an officer fire a warning shot whether it is fired in the air or not.” Paragraph 9 states that “**Officer should not discharge any firearm at or from a moving vehicle, except as the ultimate measure of self-defense or defense of another**, when the suspect is using DEADLY FORCE or other than the vehicle.” (emphasis added).

- **POLICE DIRECTIVE 032 – Vehicular Pursuit**

Police Directive 32 consists of multiple paragraphs (A – H) and subparts relating to the appropriate use of force during a police pursuits.³⁵ The policy recognizes that the preservation of life often requires that officers terminate police pursuits when the pursuit poses unreasonable danger to the public. Section 3(A) of Directive 32 provides “a decision to terminate pursuit may be the most rational means of preserving the lives and property of both the public and the officers and suspects engaged in pursuit.” Section F, titled “Use of Firearms During Pursuit” provides: “**Officer shall not discharge a firearm at or from a moving vehicle, except as the ultimate measure of self-defense or defense of another**, when the suspect is employing deadly force by means other than the vehicle. Department policy regarding deadly force shall be strictly followed.” (emphasis added).

- **POLICE DIRECTIVE 040 – Use of Force**

³² See [REDACTED]

³³ [REDACTED]

³⁴ See [REDACTED]

³⁵ See [REDACTED]

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Police Directive 40 consists of eight (8) paragraphs, all involving the appropriate use of force—including the use of deadly force.³⁶ The entire policy is relevant to this Report and should be reviewed thoroughly by the Borough Council. The notable portions of Directive 40 are as follows:

1. POLICY: *The value of human life is immeasurable in our society. Police Officers have been delegated the awesome responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection must at all times be subservient to the protection of life.*

4. DEADLY FORCE:

(A) *Deadly force may be used by a Police officer only when he believes that such force is necessary to prevent death or serious bodily injury to himself or such other person, or when he believes BOTH that:*

1) *Such force is necessary to prevent the arrest from being defeated by resistance or escape AND;*

2) *The person to be arrested has committed or attempted a FORCIBLE felony, or is attempting to escape AND possesses a deadly weapon, or otherwise indicates that he will endanger human life or inflict serious bodily injury unless arrested without delay.*

(D) *The use of deadly force must, of course, always be reasonable. To be reasonable, the use of force must always be proper, justified, and non-negligent. **Generally, before using deadly force, the officer must consider the accuracy of his information, that life or great bodily injury is threatened; whether the use of deadly force is a last resort; [and] the danger to innocent bystanders.*** (emphasis added).

3) *Officers are prohibited from discharging firearms when it appears likely that an innocent person may be injured.*

4) *Officers shall not discharge a firearm at or from a moving vehicle, except as the ultimate measure of self-defense or defense of another, when the suspect is using deadly force by means other than the vehicle.*

- **POLICE DIRECTIVE 041 – Reporting Use of Force**

³⁶ See [REDACTED]

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Police Directive 41 consists of eight (6) paragraphs, all involving the appropriate use of force—including the use of deadly force.³⁷ The entire policy is relevant to this report and should be reviewed thoroughly by the Borough Council. The notable portions of Directive 41 are as follows:

2. Purpose: *The purpose of this policy is to establish guidelines and procedures governing the use of force and weapons by all members of the Sharon Hill Police Department.*

3. Procedures: A written report prepared according to departmental procedures will be required in the following situations: (A) *when a firearm is discharged outside the firing range;* (B) *when the use of force results in death or injury...*(E) *A separate report must be completed by members of the department for all incidents outlined in the above paragraphs, A-D, on a utility report, outlining the officer's response, actions taken, injuries sustained, follow-up information and medical treatment rendered. This [utility] report will be separate from the officer's official report which will detail the entire incident and all facts concerning the use of force and related information.*

4. Discharge of Firearms: (A) *All members of this department shall immediately contact the Chief of Police or his designee on all incidents of discharge of firearm outside the range...*(D)(1) *Any member of this department who has to take the life of another person, or who has caused severe grievous bodily injury will be removed from the line of duty assignment. This is in order to protect both the officer(s) and the community's interest in the situation until it is properly investigated and resolved.* (D)(3) *All incidents involving the use of force resulting in the death or serious bodily injury will be investigated by the District Attorney's Office.*

- **POLICE DIRECTIVE 042—Use of a Taser**

Police Directive 42 consists of seven (7) paragraphs all of which relate to the use, appropriate circumstances for discharge, training and procedure for using a taser. While this policy relates to the use of less-than-lethal force, it is not particularly relevant to this Report as Tasers were not employed during the Academy Park shooting.

C. Current Use of Force Training For Sharon Hill Police Officers

1. Classroom and Situational Training to Become a Police Officer

³⁷ See Exhibit B-2. SHPD Directive 41.

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Sharon Hill Police Officers must first meet the minimal certification requirements as required by the Municipal Police Officer's Education and Training Commission ("MPOETC") before they can work as a police officer. To become a police officer, each individual must first successfully complete the Pennsylvania Municipal Police Officer Basic Training Program ("Basic Training"). In Pennsylvania, police officer Basic Training is provided at certified police academy schools. For example, in Delaware County, the Basic Training course is offered at the Delaware County Community College in Media, PA.

MPOETC publishes on its website a twenty-nine-page curriculum overview of the Basic Training program with a description of each module, and a two-page syllabus. Police Officer cadets that undergo the Basic Training Program receive training on the use of deadly force in two modules, Volume 3 "Laws and Criminal Procedures" and Volume 17 "Firearms. According to MPOETC, in the Laws and Criminal Procedure module, cadets will receive the following training:

Use of Force is a very important topic that is also addressed in this Module. Cadets will become versed in Constitutional Law and legal issues dealing with Use of Force in Pennsylvania and will review and understand related case law. There will be a familiarization with the elements of justification when a Use of Force action is taken, and Cadets will be able to legally defend a justified Use of Force. Instructors will also discuss the consequences of an unlawful use of deadly or non-deadly force, both criminally and civilly. The Use of Force continuum and various Use of Force options will be introduced to the Cadets. They will gain an appreciation for the ability to defuse and de-escalate Use of Force encounters and will learn that gaining general voluntary compliance is preferable to physically engaging an individual; however, when it is necessary to engage they will also understand the level of force appropriate for a variety of given situations.

See Basic Training Manual, pg. 8. In the "Firearms" module, the cadet receives the following training:

Cadets will participate in a stress shooting course. The instructors will give an introduction and cautions, discuss the process and procedure, the range layout, and the exercise. The stress shooting course will cause Cadets to experience the effects of physical stress on manual dexterity and shooting skills. They will engage targets after physical exertion. Cadets will still be expected to demonstrate proper use of cover while engaging targets after performing physically stressful tasks. They will be expected to demonstrate the ability to make proper shoot/no shoot decisions and will demonstrate the capacity to use deadly force properly in stressful circumstances³⁸.

³⁸ See [REDACTED]

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[REDACTED]

2. Shooting Range Training and Qualifications for Certified Police Officers

The MPOETC requires that police officers qualify with their duty weapon each year.³⁹ The shooting range testing that all police officers must undergo to remain certified is an examination of proficiency and accuracy but does not appear to test target recognition or judgment. For example, the testing consists of officers moving through a set course, shooting at different distances, in different shooting positions (standing, kneeling, etc.), shooting with both one’s strong hand and weak hand, reloading, retreating and taking cover. The officers are tested for timing and accuracy. [REDACTED]

[REDACTED]

3. Additional Firearms Training for SHPD Officers

The Sharon Hill Police Department has the authority to impose additional training requirements to better prepare their officers for the issues the Chief deems most appropriate and necessary. [REDACTED]

[REDACTED]

On April 26, 2022, Investigators conducted a site visit to the shooting range used by the SHPD [REDACTED]. The range included a classroom and 100-yard shooting range. Investigators asked the individual that worked at the range how the “shoot / no-shoot” targets worked. Investigators were told that the officer’s would begin a “shoot / no-shoot” training exercise with their view of the target blocked. When the officer would step out from the covering, revealing the target, he or she would make a decision whether to fire.

³⁹ Title 37, Section 203, establishes the following regulatory requirements related to police firearms qualifications. All certified police officers must complete annual qualification on a police firearms course with any firearms authorized for use, including personal weapons. §203.52(b)(1)(i). The minimum passing score for a firearms course is 75%. §203.11(11)(ii)(A). All waiver-of-training applicants and basic cadets must meet the Commission’s standards for firearms qualification. §203.11(11)(ii)(A); §203.12(3)(i). Firearms instructors can refuse to qualify an individual on a weapon they have determined is unsafe, inadequate or not appropriate for police training. §203.33(16)(i). Failure to meet the Commission’s standards for firearms qualification is grounds for revocation of certification. §203.14(a)(3).

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Besides the range itself, there was also an enclosed classroom at the shooting range. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4. Additional Elective Course Training for SHPD Officers

SHPD officers may take additional training courses if they so desire, and the SHPD will support such additional training. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

VI. EVALUATION OF SHARON HILL POLICE DEPARTMENT USE OF FORCE POLICIES AND TRAINING

A. Assessment of SHPD Training and Policies

⁴⁰ The Pennsylvania State Police, the York County Police Department, and other departments use 3D virtual reality training systems that are meant to simulate real life situations involving the use of deadly force. *See* <https://www.govtech.com/public-safety/pennsylvania-police-embrace-3d-virtual-training>, last visited on April 27, 2022.

⁴¹ [REDACTED]
[REDACTED]
[REDACTED]

⁴² [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Comparison Between SHPD Use of Force Policies with Other Police Departments

Investigators compiled several neighboring law enforcement agencies' use-of-force policies to compare to the SHPD policies. The law enforcement agencies selected as comparators represent a cross section of local police departments of various sizes, geographic locations and demographics: large and small municipalities, urban and suburban, and eastern and western regions of Pennsylvania. Those agencies include:

1. Philadelphia Police Department
2. Pittsburgh Police Department
3. Springfield Township Police Department (Delaware County)
4. Norristown Police Department
5. Lower Merion Township Police Department

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	Size of Department*	Size of Population Served	Sq/M Size of Jurisdiction	Type of Locality
Sharon Hill Police Department	9	5,674	.77	Suburban
Lower Merion Township Police Department	135	59,796	23.67	Suburban
Norristown Police Department	68	34,430	3.52	Suburban
Philadelphia Police Department	6,584	1,589,014	134.1	Urban
Pittsburgh Police Department	1,064	300,548	55.37	Urban
Springfield Township Police Department	32	24,208	6.32 sq.	Suburban

* Full-time police officers

Sharon Hill Police Department’s policy regarding use of force is a four-page document that has an effective date of January of 2016.⁴⁵ The Sharon Hill policy is divided into eight parts: policy, purpose, definitions, use of force, progression of force, identification as a police officer, physical force and a legal disclaimer. The policy begins with a statement of the value of human life. This principle is present at the beginning of almost all other agencies’ policies reviewed by Investigators and follows the guidance of the model rules.⁴⁶

The purpose of the SHPD use-of-force policy is to preserve life while providing police officers the tools they need to perform a dangerous job that may, at times, necessitate the use of force. The SHPD’s manual contains two policies that solely focus on a police officer’s appropriate use of force. The first, Police Directive No. 40, encompasses all levels of force (less-than-lethal to deadly). The second, Police Directive No. 41, involves the reporting of use-of-force incidents.

Unlike the SHPD, the Philadelphia Police Department’s policy manual contains four policies that solely focus on a police officer’s appropriate use of force. These include policies entitled: Use of Force Involving the Discharge of Firearms, Use of Moderate/Limited Force, Use of Less Lethal Force and the Use of Force Review Board. Other Pennsylvania police departments, such as Pittsburgh and Springfield (Delaware County) are more closely aligned with the SHPD as their policies encompass the progression from non-deadly to deadly force in one policy.

In reviewing the definitions, SHPD’s policy defines four terms: deadly force, non-deadly force, reasonableness and reasonable amount of force. Within SHPD’s policy, deadly force is defined as “force which is intended to cause death or grave injury or which creates some specific degree of

⁴⁵ [REDACTED]

⁴⁶ Philadelphia Police Department, Pittsburgh Police Department, Norristown Police Department and Lower Merion Township Police Department’s policies all contain language pertaining to the value of human life in its initial paragraphs.

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risk that a reasonable and prudent person would consider likely to cause death or grave injury. This differs slightly from the Pennsylvania Crime’s Code definition of deadly force: “Force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.”⁴⁷ Springfield Township and Pittsburgh Police Department use the aforementioned Crime’s Code definition. To the extent other policies defined “non-deadly force,” they were also similarly defined as a catch all for any force that isn’t “deadly force.”⁴⁸ SHPD’s policy also lists specific examples of what actions would not constitute deadly force. For example, the use of police dogs or pepper spray is not deadly force.

The next two sections of SHPD’s policy discuss the use of force as an escalating progression. This includes a list of seven (7) instances where deadly force is prohibited. One instance included on this list is the prohibition of shooting at a vehicle unless the suspect is using deadly force, other than the vehicle itself. This means, even if the suspect is using his or her vehicle as a deadly weapon by striking people or property, the officer is not permitted to use deadly force against that suspect unless they are using deadly force *other than* the vehicle.⁴⁹

The escalating progression of force appears in every agency’s policy but differs in presentation. For example, SHPD directs its officers on progression of force via a six-step list, least to greatest:⁵⁰

- a. Verbal directions, persuasion, advice, warnings and control orders.
- b. Unarmed control techniques, escort holds, compliance holds, passive counter measures and active counter measures.
- c. Non-lethal taser or OC spray.
- d. Verbal warning; impact weapon, use of baton/pr 24 and Handler-12.
- e. Verbal warning; Use of tear gas.
- f. Verbal warning; Use of service weapon/shotgun.

Whereas Philadelphia Police Department’s policy uses a pyramid diagram to display the progression of use of force:

⁴⁷ See 18 Pa.C.S.A. §501

⁴⁸ Pittsburgh Police Department defines non-deadly force as “any use of force other than that which is considered deadly force.”

⁴⁹ Lower Merion Police Department, Springfield Township Police Department and Norristown Police Department’s policies contain language prohibiting shooting at or from a vehicle.

⁵⁰

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USE OF FORCE DECISION CHART



While the use of force progresses in steps similar to SHPD’s policy, Philadelphia’s diagram also includes “offender threat” to explain the type of behavior the suspect would display at each level to justify that level of force.

Springfield Township Police Department takes another approach by graphing the progression of force.

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[REDACTED]

[REDACTED]

[REDACTED]

C. Additional Policy Comparisons Based on Borough Council’s Concerns

[REDACTED]

⁵¹ Philadelphia Police Department, Springfield Township Police Department, Norristown Police Department, Lower Merion Township Police Department and Pittsburgh Police Department all contain de-escalation directive within its use of force policies.

⁵² See [REDACTED]

⁵³ It remains uncertain as to whether the pending revisions to policies have been adopted. Therefore, absent an effective date, any pending or newly revised policies are not included in this report.

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[REDACTED]

[REDACTED]

[REDACTED]

⁵⁴ The Pennsylvania Law Enforcement Accreditation Commission (PLEAC) oversees the accreditation process and program and, as reported to Investigators by the agency and on its website, the program provides through a three tier approach provides a report, standards manual, support, and annual training requirements to maintain an accredited status. See [Pennsylvania Law Enforcement Accreditation Commission](#).

⁵⁵ [REDACTED]

⁵⁶ Philadelphia Police Department Directive 12.18.

⁵⁷ Pittsburgh Police Department Order 18-1 Civilian Complaint Filing Procedure.

⁵⁸ Philadelphia Police Department Directive 12.18.

⁵⁹ Pittsburgh Police Department Order 18-1 Civilian Complaint Filing Procedure.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Guidance on Best Practices and Model Policies

Law enforcement associations at the international, national, state and local levels provide law enforcement agencies resources to utilize in drafting policies and implementing training. A summary of current publications from these associations regarding use-of-force policies and trainings, and related principles, are summarized below.

1. International Association of Chiefs of Police

The International Association of Chief of Police (“IACP”) published a “National Consensus on Use of Force Policy” in 2020 which resulted from the collaboration of eleven national and

⁶⁰ Lower Merion Township Police Department Policy 3.2.2. Internal Discipline Procedure; Springfield Township Police Department Policy 2.3.1. Administrative Investigations.

⁶¹ Pittsburgh Police Department Order 18-1 Civilian Complaint Filing Procedure; Springfield Township Police Department Policy 2.3.1. Administrative Investigations.

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international law enforcement associations.⁶² The publication emphasized the importance of “clear and concise policies” that contain “well-defined guidelines.”⁶³ In order to accomplish this, it is recommended that law enforcement agencies avoid lengthy policies or policies that contain overly detailed language.⁶⁴

The article states the main guiding principle in creating a Use of Force policy should be “to value and preserve human life.”⁶⁵ In recognizing there will be situations where this guiding principle cannot be followed, the standard used to determine if use of force was justified is by evaluating “what was reasonably believed by the officer, to include what information others communicated to the officer, at the time the force was used” and “upon what a reasonably prudent officer would use under the same or similar circumstances.”⁶⁶

Turning to the contents of the policy, the policy recommends that key terms, such as “deadly force,” “less-lethal force,” and “exigent circumstances,” amongst others, be defined within the policy. Additionally, a de-escalation plan should be incorporated into use of force policies.⁶⁷ Even if the use of force is ultimately required, employing de-escalation techniques likely creates time for the officer to further assess the situation.⁶⁸ Because of this, incorporating *force models* into the policy is encouraged.⁶⁹ Force models outline either individual levels or a continuum of the actions available to an officer in specific settings for that officer to gain control of situation and individuals involved.⁷⁰

In discussing the use of force in specific situations, the article discusses shooting at moving vehicles. IACP recognizes the risk to bystanders when shooting at a car are substantial, often making the use of force unacceptable.⁷¹ The article states that a person in the vehicle must be “immediately threatening the officer or another person with deadly force by means other than the vehicle” for an officer to consider using deadly force.⁷² Even then, the officer should only be considering using deadly force after consideration has been given to risk it imposes to the safety of bystanders in the vicinity.

Finally, information regarding use of force training requirements should be delineated within the policy itself. The IACP recommends at the very least, law enforcement agencies engage in annual trainings.⁷³ It is further recommended that firearm trainings simulate actual shooting situations and

⁶² *National Consensus Policy and Discussion Paper on the Use of Force*, (2017) REVISED

⁶³ *International Association of Chief of Police – National Consensus Use of Force*

⁶⁴ *Id.*

⁶⁵ *Id.* at 8.

⁶⁶ *Id.*

⁶⁷ *Id.* at 12.

⁶⁸ *Id.*

⁶⁹ *Id.* at 10.

⁷⁰ *Id.*

⁷¹ *Id.* at 14.

⁷² *Id.* at 14.

⁷³ *Id.* at 15.

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conditions; this may include trainings in environments or settings that replicate the environments or scenarios in which these incidents are foreseeable within each law enforcement agency's jurisdiction.⁷⁴

2. United States Department of Justice: COPS Office

Within the U.S. Department of Justice is the Office of Community Oriented Policing Services ("COPS"). COPS provides resources on community policing topics to all levels of law enforcement through publications, conferences and presentations, and grants to fund trainings.

COPS most recent *Law Enforcement Best Practices Lessons Learned From The Field* from 2019 discusses the importance of incorporating de-escalation practices into a law enforcement agency's use of force policies and trainings.⁷⁵ To effectively incorporate de-escalation into practice, the article recommends creating a knowledgeable and supportive culture, through means such as "robust" training and rewarding de-escalation efforts in the field.⁷⁶ It is also recommended that law enforcement agencies converse with the community in the process of creating policies.⁷⁷ Not only does this provide a more comprehensive conversation, of suggestions and criticism from different perspectives, but also aides in building a trusting relationship between the agency and its community.

With respect to building a trusting relationship with the community, COPS recognizes the crucial role internal investigations have in relationship to use of force policies.⁷⁸ Law enforcement agencies serve a unique role in that they are the only social construct permitted to use force against a citizen when justified.⁷⁹ Because of this power and responsibility, the internal affairs of a law enforcement agency cannot run as an afterthought or professional courtesy. COPS recommends several key principles in establishing an effective internal affairs program, some of those are:

- Make intake of complaints open and accessible.
- Designate the individuals that will conduct the investigations.
- Maintain established timelines and keep open communication with interested parties.
- Designate an individual or supervisor to independently review the investigation.
- Consider external review when necessary.
- Maintain transparency in situations of corrective action.⁸⁰

⁷⁴ *Id.*

⁷⁵ *U.S. Department of Justice: COPS Law Enforcement Best Practices – Lessons Learned in the Field*

⁷⁶ *Id.* at 31.

⁷⁷ *Id.*

⁷⁸ *Id.* at 75-76.

⁷⁹ *Id.*

⁸⁰ *Id.* at 82 – 88.

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Having a strong and transparent internal affairs program in place is crucial when incidents involving use of force, whether lethal or less-lethal, occur. COPS also recognizes the difficulty that exists for smaller agencies as there may not be enough staffing to dedicate an entire unit to internal affairs. For those departments, it is all the more important to establish strong policies.⁸¹ However, smaller agencies also benefit the most from a strong, transparent internal affairs program that likely fosters the closer relationship they share with their communities due to size.⁸²

Further, COPS recognizes the classification of a complaint as a necessary step in the investigative process.⁸³ Under COPS standards, a complaint falls into one of two categories, either administrative or criminal.⁸⁴ When evaluating whether a use of excessive force complaint should be handled as a criminal or administrative, the agency should evaluate whether the complaint alleges willful, intentional, reckless, or knowing conduct.⁸⁵ If it is determined that the complaint alleges conduct that falls under any of the four categories, the agency should consider presenting the complaint to, and consulting with, the District Attorney's office.⁸⁶

3. Police Executive Resource Forum

The Police Executive Research Forum ("PERF") is another national organization that researches critical issues within law enforcement and provides guidance on these topics. In 2016, PERF held a summit regarding the use of force, at which over 150 members of law enforcement agencies throughout the country, including chiefs of local police departments, to ATF Agents, to the Senior Policy Advisors and Senate members, were in attendance. Through this collaboration, PERF created "30 Guiding Principles on Use of Force."⁸⁷ These principles provide guidance on policy, training, and equipment.

Similar to the guidance mentioned above, PERF also emphasized the importance of reporting and investigating use of force incidents. Included within the report is a study from the New York Police Department ("NYPD"). The NYPD has been a leading department on use of force investigations since the 1970s and the importance of reporting and investigating these incidents is evident in their statistics. In 1971 NYPD had 810 instances of officer-involved shootings. As of 2015, that number is down to 67 instances. NYPD attributes this 90 percent decrease, in part, to reporting and investigating these instances in a transparent manner. The NYPD Police Commissioner notes in the study that "[B]y having data, due to consistent reporting, allows the department to better evaluate these occurrences and uses this data in developing and bettering its policies."

⁸¹ *Id.* at 89.

⁸² *Id.*

⁸³ [REDACTED]

⁸⁴ *Id.* at 21.

⁸⁵ *Id.* at 22.

⁸⁶ *Id.*

⁸⁷ [REDACTED]

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Additionally, PERF's first listed guiding principle is that the value of human life should be at the constant thought behind any agency action. Another listed principle, of the fourteen principles regarding policy, states "Shooting at vehicles must be prohibited."⁸⁸ The recommendation is that agencies adopt a policy that prohibits shooting at or from a vehicle unless someone in the vehicle is using deadly force by means other than the vehicle.⁸⁹ PERF has recommended this prohibition as part of a use of force policy for several years and its effectiveness has shown in departments that have implemented it.⁹⁰

Similar to guidance from other associations, PERF emphasizes the importance of quality training on use of force including de-escalation and scenario-based tactics.⁹¹ PERF adds to the dialogue by recommending training on mental health issues.⁹² According to this guidance, officers should be trained on mental health issues so that they are readily able to identify individuals with these needs, and adjust their strategy accordingly.⁹³ PERF explains how teachings on de-escalation strategies and mental health issues should be interwoven as one often affects the other.⁹⁴ The guiding principles also recommends officers train in their teams, including supervisors.⁹⁵ Not only does this further the accuracy of the simulation, but it keeps supervisory officers up-to-date on trainings and allows practice of communication skills.

Finally, PERF provides guiding principles on the importance of less-lethal weapons and equipment.⁹⁶ Trainings on, and policies regarding, less-lethal weapons, such as chemical sprays and electronic control weapons, are an important aspect of de-escalation practices.⁹⁷

4. *Municipal Police Officers' Education and Training Commission*

The Municipal Police Officers Education and Training Commission ("MPOETC") is a Pennsylvania organization under which, the Pennsylvania State Police are responsible for the creation and administration of a series of different trainings.⁹⁸ MPOETC oversees the basic municipal police officer training curriculum and leads the required training.⁹⁹ This program consists of approximately 900 hours of classroom and practical training.¹⁰⁰ The course curriculum is separated into five modules with the final module including practical scenario exercises.¹⁰¹

⁸⁸ *Id.* at 44.

⁸⁹ *Id.* at 44.

⁹⁰ *Id.* at 44-45.

⁹¹ *Id.* at

⁹² *Id.* at 57.

⁹³ *Id.* at 59-60.

⁹⁴ *Id.*

⁹⁵ *Id.* at 62-64.

⁹⁶ *Id.* at 65-66.

⁹⁷ *Id.* at 67.

⁹⁸ [REDACTED]
⁹⁹ *Id.* at 3.

¹⁰⁰ *Id.*

¹⁰¹ Attach 2022 MPOETC Mandatory In-Service Training Course Description

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Additionally, officers seeking certification must complete the firearms qualification course.¹⁰² Following the completion of the basic training, MPOETC administers the state certification assessment.

Every year, certified municipal police officers are required to complete twelve hours of continuing law enforcement education hours in order to maintain their certification. The courses cover an array of different topics from drug overdose response to effective communication to tactical medicine and change from year to year. Offered every year is the “Legal Updates” course which discusses new statutes or court decisions that affect policing. [REDACTED]

[REDACTED] Each officer in the Sharon Hill Police Department who participated in this investigation and provided an interview completed MPOETC training as required in order to become a law enforcement officer for the Borough.

E. Additional Areas of Concern Based on Sharon Hill Borough Council’s Goals

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁰² Attached 2022 MPOETC Firearms

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[Redacted text block]

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In 2014, the President of the United States appointed a task force to identify best practices on policing to simultaneously and effectively reduce crime, while building trust in the community. This task force worked closely with the DOJ’s Office of Community Oriented Policing Services (COPS) to produce a guidebook of recommendations and best practices. The application of what was found and stated in the guidebook remains very relevant and offers proven guidance rooted in data how to effectively craft and implement comprehensive strategies on effective policing.¹⁰³

Neighboring Police Departments and Demographics¹⁰⁴

	Size of Population Served	Sq/M Size of Jurisdiction	Racial Demographic of the Population
Sharon Hill Police Department	5,957	.77	72.5% Black or African American 20% White
Aldan	4,153	.59	61.7% White 30.3% Black or African American
Collingdale Borough	8,824	.87	58.1% Black or African American 32.9% White
Colwyn	2,546	.26	83% Black or African American 10.3% White
Darby Borough	10,641	.84	85.2% Black or African American 11.9% White
Darby Township	9,137	1.42	55.2% White 42.9% Black or African American
Folcroft Borough	6,737	1.25	48.6% White 45.7% Black or African American
Glenolden Borough	7,159	.97	80.6% White 11.8% Black or African American
Norwood	5,894	.78	93.3% White 1.9% Black or African American
Clifton Heights	6,798	.63	62.8% White 31.1% Black or African American

The locations that appear in **bold** above are comparative boroughs with similarly situated police departments. These police departments serve communities similar in either size, demographics or

¹⁰³ See The President’s Task Force on 21st Century Policing. Implementation Guide – Moving from Recommendations to Action. <https://cops.usdoj.gov/RIC/Publications/cops-p341-pub.pdf>

¹⁰⁴ <https://www.census.gov/quickfacts/fact/table/US/PST045221>

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[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁰⁵ While the policies for each of these Borough is not publicly or readily accessible, it is recommended that the SHPD Chief of Police outreach to his fellow Chiefs in the listed boroughs to request their policies and procedures. Once received, comparative policies and information should be shared with Borough Council as part of the process of drafting and implementing an improvement plan regarding police department policies, procedures and accountability.

¹⁰⁶ See [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

¹⁰⁷ See [REDACTED]

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[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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C. Recommendations

[REDACTED]

Recommendation #1: [REDACTED]

Recommendation #2: [REDACTED]

Recommendation #3: [REDACTED]

¹⁰⁹ See [REDACTED]

¹¹⁰ [REDACTED]

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[REDACTED]

Recommendation #4: [REDACTED]

Recommendation #5: [REDACTED]

Recommendation #6: [REDACTED]

Recommendation #7: [REDACTED]

111 [REDACTED]

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[REDACTED]

Recommendation #8: [REDACTED]
[REDACTED]
[REDACTED]
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Recommendation #9: [REDACTED]
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Recommendation #10: [REDACTED]
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Recommendation #11: [REDACTED]
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Recommendation #12: [REDACTED]
[REDACTED]
[REDACTED]

Recommendation #13: [REDACTED]
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[Redacted]

Recommendation #14: [Redacted]

Recommendation #15: [Redacted]

Recommendation #16: [Redacted]

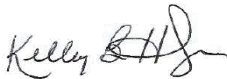
Recommendation #17: [Redacted]

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Closing

We appreciate the Borough of Sharon Hill Council for enlisting our assistance and entrusting us to conduct this investigation. Additionally, we appreciated meeting with and hearing from the family of Fanta Bility through their family representative, Sadiq Kamara. Lastly, we appreciated the information provided by members of the Sharon Hill Police Department, the Delaware County District Attorney's Office and any interested citizen who shared their comments and concerns.

Respectfully submitted,



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Stefanie D. Friedman, Esq.

Date: July 21, 2022